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LLOYDE DAKIN JR ASSISTANT LABORATORY COUNSEL LAWRENCE LIVERMORE NATIONAL LABORATORY P O BOX 808-L-703 LIVERMORE, CA 94551			EXAMINER BETTT, JACOB F	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DOUGLAS R. COFFLAND

Appeal 2009-008051
Application 09/405,031
Technology Center 2100

Before JOSEPH F. RUGGIERO, ROBERT E. NAPPI, and
CARLA M. KRIVAK, *Administrative Patent Judges*.

KRIVAK, *Administrative Patent Judge*.

DECISION ON APPEAL¹

Appellant appeals under 35 U.S.C. § 134(a) from a final rejection of claims 1-30. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Appellant's claimed invention relates to using a media signal to generate a keyword for multimedia encryption (Spec. 4:2-5:2).

Independent claim 1, reproduced below, is representative of the subject matter on appeal:

1. A system adapted for use for multimedia encryption comprising:

acquisition means for acquiring a media signal, said acquisition means including a random noise transducer for acquiring random noise only, said random noise being unpredictable from one moment to the next and not being chaotic noise;

data compression means coupled to said acquisition means to receive and compress said media signal containing random noise that is unpredictable from one moment to the next and not being chaotic noise into a compressed data stream;

data acquisition means coupled to said data compression means to receive and select a set of data from the compressed data stream; and

hashing means coupled to said data acquisition means to receive and hash the set of data into a keyword.

REJECTIONS

The Examiner rejected claims 1-30 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

The Examiner rejected claims 1-30 under 35 U.S.C. § 112, second paragraph, as being indefinite.

Appellant contends claims 1-30 are described in the specification such that a person skilled in the art would recognize Appellant had possession of

the claimed invention (App. Br. 10).² Appellant also contends claims 1-30 are definite and no essential steps are omitted (App. Br. 14, 16).

ANALYSIS

Rejection under § 112, first paragraph

The Examiner finds Appellant's Specification does not describe claims 1-30 so as to reasonably convey to one skilled in the art Appellant had possession of the claimed invention (Ans. 3). In particular, the Examiner finds the limitation "random noise being unpredictable from one moment to the next," as recited in claims 1, 10, 17, and 24, is unsupported by the Specification (Ans. 4). Although the Specification discloses using white Gaussian noise, the Examiner argues white Gaussian noise is predictable because over time the noise values will occur close to a statistical mean (Ans. 4-5). We disagree.

As Appellant asserts, the Specification discloses "Random noise, such as white Gaussian noise, is completely unpredictable from one moment to a next . . ." (App. Br. 11; Spec. 7:13-14). This is supported by the article titled "Design of Random Noise Generator Using SW Algorithm," by Hong et al. (App. Br., Evidence Appendix, 1). Hong discloses "A popular method for generating random numbers using a natural phenomenon is the electronic amplification and sampling of a thermal or Gaussian noise signal" (Hong, p. 9). The Examiner's reliance on a statistical mean of the Gaussian curve to show the predictability of white Gaussian noise is misplaced (Ans. 5). While the noise values may coalesce around a mean over a period of time,

² Appellant's Amended Brief filed February 5, 2009, is referenced throughout this opinion.

white Gaussian noise is “unpredictable from *one moment to the next*,” as recited in claims 1, 10, 17, and 24 (emphasis added). Therefore, Appellant was in possession of the claimed invention at the time the application was filed.

Rejection under § 112, second paragraph

The Examiner finds claims 1-30 are incomplete for omitting essential steps, elements, or instructions (Ans. 6). In particular, the Examiner notes claims 1, 10, 17, and 24 recite in their respective preambles the language “adapted for use for multimedia encryption,” but finds these claims omit the steps, elements, or instructions of actually encrypting multimedia data (Ans. 6-7). However, the language “adapted for use for multimedia encryption” does not require the claims recite steps relating to actual encryption. Rather, the claims are directed to generating a keyword that is useful in multimedia encryption, in accordance with the language “for use.” Therefore, claims 1-30 are not incomplete, and thus, are not indefinite.

DECISION

The Examiner’s decision rejecting claims 1-30 is reversed.

REVERSED

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